Office - Supreme Court, U. S.
FILED
SEP 26 1949
CHARLES ELMORE CROPLEY
CLERK

INDEX

	Page
Opinions below	1
Jurisdiction	1
Questions presented	2
Statute and rule involved	3
Statement	5
Argument	6
Conclusion	20

CITATIONS

Cases:

Arnstein v. *United States*, 296 Fed. 946, certiorari denied, 264 U. S. 595 — 12

Barsky v. *United States*, 167 F. 2d 241, certiorari denied, 334 U. S. 843 — 11, 13, 15, 16

Bono v. *United States*, 113 F. 2d 724 — 16

Brown v. *United States*, 276 U. S. 134 — 14

Christoffel v. *United States*, 338 U. S. 84 — 15

Dennis v. *United States*, 171 F. 2d 986 — 13, 16, 19

Eisler v. *United States*, 170 F. 2d 273, certiorari denied, 335 U. S. 857, cause ordered removed from docket, 338 U. S. 189 — 13, 15, 16

Fields v. *United States*, 164 F. 2d 97, certiorari denied, 332 U. S. 851 — 15

Frazier v. *United States*, 335 U. S. 497 — 19

Goldman v. *United States*, 316 U. S. 129 — 12

Hirabayashi v. *United States*, 320 U. S. 81 — 13

Jordan v. *Bondy*, 114 F. 2d 599 — 12

Josephson v. *United States*, 165 F. 2d 82, certiorari denied, 333 U. S. 838 — 16

Marshall v. *United States*, No. 197, this Term — 7, 11, 12, 13, 14, 15, 16, 18

Pinkerton v. *United States*, 328 U. S. 640 — 13

Sinclair v. *United States*, 279 U. S. 263 — 9, 14, 15

Thiel v. *Southern Pacific Company*, 328 U. S. 217 — 18

Thomson v. *Gaskill*, 315 U. S. 442 — 16

Townsend v. *United States*, 95 F. 2d 352, certiorari denied, 303 U. S. 664 — 11, 13, 15

United States v. *Medical Society*, 26 F. Supp. 55 — 14

United States v. *Muraskin*, 99 F. 2d 815 — 12

United States v. *Seymour*, 50 F. 2d 930 — 11

United States v. *Wood*, 299 U. S. 123 — 19

Wheeler v. *United States*, 226 U. S. 478 — 14

Statute and Rule:
Legislative Reorganization Act of August 2, 1946, c. 753, 60 Stat. 823 4
R. S. § 102, as amended (2 U. S. C. 192) 3, 15
Rule XI of the Rules of the House of Representatives, 79th Cong., as amended and adopted on January 3, 1945, by H. Res. No. 5, 79th Cong., 1st sess. (91 Cong. Rec. 10, 14–15) 4
Miscellaneous:
Executive Order 9835, 12 F. R. 1935 16

In the Supreme Court of the United States

OCTOBER TERM, 1949

No. 236

RICHARD MORFORD, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the Court of Appeals (R. 439–442) has not yet been reported. The opinion of the District Court denying petitioner's motion to dismiss the indictment (R. 18–29) is reported *sub nom. United States* v. *Bryan* at 72 F. Supp. 58.

JURISDICTION

The judgment of the Court of Appeals was entered June 13, 1949 (R. 443), and a petition for rehearing (R. 444–445) was denied July 8,

1949 (R. 445). The petition for a writ of certiorari was filed August 6, 1949. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1). See also Rules 37 (b) (2) and 45 (a), F. R. Crim. P.

QUESTIONS PRESENTED

1. Whether the trial court correctly held that the documents called for by the subpoena served upon petitioner as Executive Director of the National Council of American-Soviet Friendship, Inc., and the questions propounded to him were pertinent to a legitimate investigation being made by the House Committee on Un-American Activities.

2. Whether the trial court erred in refusing to compel compliance with defense subpoenas for materials in the files of the Committee concerning the Council and in excluding proffered evidence purporting to show that the Committee subpoenaed the Council's records for the purpose of adding names to an alleged "blacklist."

3. Whether the subpoena was so broad in its sweep as to violate the Fourth Amendment.

4. Whether a deliberate refusal to produce subpoenaed records is willful even though the party subpoenaed believes in good faith that the Committee has no power to compel production of the records.

5. Whether petitioner has any standing to raise in this Court for the first time a question as to

the presence of a quorum of the Committee at the time he appeared before it.

6. Whether the resolution creating the Committee and defining the scope of its investigatory powers is constitutional.

7. Whether government employees should have been excluded from the jury because of alleged prejudice in favor of the Government.

STATUTE AND RULE INVOLVED

R. S. § 102, as amended (2 U. S. C. 192), provides:

> Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months.

Rule XI of the Rules of the House of Representatives, 79th Congress, as amended and adopted on January 3, 1945, by H. Res. No. 5,

79th Cong., 1st sess. (91 Cong. Rec. 10, 14–15), provided in pertinent part as follows:[1]

* * * * *

> The Committee on Un-American Activities, as a whole or by sub-committee, is authorized to make from time to time investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.
>
> The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.
>
> For the purpose of any such investigation, the Committee on Un-American Activities, or any sub-committee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or

[1] The quoted portion of Rule XI was, subsequent to the date of the offense charged against petitioner (March 6, 1946), renumbered as paragraph (1) (q) (2) of Rule XI by Section 121 (b) of the Legislative Reorganization Act of August 2, 1946, c. 753, 60 Stat. 823, 828–829.

has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpoenas may be issued under the signature of the chairman of the committee or any sub-committee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

* * * * *

STATEMENT

Petitioner, the Executive Director of the National Council of American-Soviet Friendship, Inc. (hereinafter called the Council), was served with a subpoena to appear and testify and to produce before the Un-American Activities Committee of the House of Representatives (hereinafter called the Committee) "all books, records, papers and documents showing all the receipts and disbursements of money" by the Council and "all correspondence, memoranda and communications with any and all persons, together with a complete list of all affiliated organizations, for the year 1945" (R. 251–252). Petitioner appeared before the Committee on March 6, 1946, but refused to produce the documents called for by the subpoena (R. 11–12) and also refused to give the names of the members of the Council's publications committee, which prepared and edited the Council's publication known as "Reporter" (R.

14–17). Petitioner was thereafter convicted (R. 219) on both counts of an indictment under R. S. § 102 (*supra*, p. 3) charging refusal to produce the subpoenaed documents and refusal to name the members of the publications committee (R. 2–3). He was sentenced generally to three months' imprisonment and to pay a fine of $250 (R. 222). On appeal, the judgment of conviction was affirmed (R. 443).

ARGUMENT

1. Petitioner contends (Pet. 14–24) that the Committee was without authority to compel the production of the financial records and correspondence of the Council and the disclosure of the identity of the members of the Council's publications committee unless and until it was established and determined that the Council's propaganda, much of which had previously been examined by the Committee, was of the nature described in the enabling resolution underlying the Committee's authority. In this connection, he asserts that the record of the proceedings before the Committee reflects that it did not regard its authority as limited to investigating organizations disseminating subversive and un-American propaganda but as extending to any organization which the Committee saw fit to investigate. Petitioner also attacks the holding of the District Court, sustained by the Court of Appeals, that the records and other information requested by the Commit-

tee were pertinent to an inquiry within the Committee's competence to undertake. In short, he asserts that the Committee acted "without cause or basis relevant to its jurisdiction" (Pet. 14).

The first facet of petitioner's argument is plainly unsound, and, in addition, it rests upon an erroneous factual hypothesis. For, as the Court of Appeals pointed out (R. 440), "Obviously the first step in an investigation authorized by House Resolution No. 5 is to determine whether the propaganda being diffused is in fact subversive in the sense of the term as used in the Resolution." And it is equally obvious that the power so to investigate necessarily includes the power to investigate the organization disseminating the propaganda. The dual aspects of such an inquiry are of a piece in investigating (1) "the extent, character, and objects of un-American propaganda activities in the United States, [and] (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution" (H. Res. No. 5, *supra*, pp. 3–5). We think the following observation of the court below in *Marshall* v. *United States*, petition for certiorari pending, No. 197, O. T., 1949, R. 241, effectively answers this aspect of petitioner's argument:

> * * * the modern pattern of subversive propaganda, as exemplified by that of the Communist Party, may be composed of two aspects. There is first a public aspect, which by itself may appear quite innocent, and indeed may seem commendable in the objects and causes which it appears to espouse. But this public feature of the subversive propaganda technique is often only a means of hiding, strengthening, and enlarging the sphere of operations of a subversive organization. The real purpose and goal which seeks to destroy our constitutional guarantees, may never be openly and publicly announced * * *

Furthermore, it is clear, contrary to petitioner's contention, that the Committee had concluded, before it subpoenaed petitioner, at least that there was a reasonable basis for belief that the activities of the Council came within the scope of its investigatory powers. The previous proceedings, outlined in the petition (pp. 3–5), the nature of the Council's propaganda previously examined by the Committee (see pp. 9–10, *infra*), and the action of the Committee in issuing the subpoena commanding petitioner to appear and produce the specified documents and to testify "touching matters of inquiry committed to said Committee" (R. 252), all show that the Committee had determined that further investigation was authorized and necessary to determine the "origin" and the

"extent, character, and objects" of the Council's propaganda.[2]

The issue whether the records called for by the subpoena and the information requested of petitioner as to the identity of the members of the Council's publications committee were pertinent to an inquiry within the Committee's competence was one of law for the trial court's determination (*Sinclair* v. *United States*, 279 U. S. 263, 298), and its decision that they were (R. 122, 213) was clearly correct. Before the Committee issued its subpoena, it considered numerous issues of "Reporter" (R. 75), the report of the Committee's investigator, Russell, digesting issues of "Reporter" (R. 116, 263–276), a leaflet on the general purposes and program of the Council (R. 75), a report of the National Information Bureau, Inc., to the effect that one of the purposes of the Council was "to take specific action against anti-Soviet propaganda aimed at dividing the United Nations" (R. 76, 118–120, 255), and information that contributors to the Council could deduct their con-

[2] The isolated excerpts from the Committee's proceedings set forth at pages 15–18 of the petition certainly cannot be accepted as supporting petitioner's bald assertion that the Committee claimed "limitless authority" "to compel the production of all the records of every organization 'functioning in America,' without regard to the nature of the propaganda issued by that organization" (Pet. 19). Whatever may be petitioner's views as to the activities of the Committee, the fact is, as we show in the text, that the records and other information demanded of petitioner were pertinent to a legitimate inquiry.

tributions from their income tax returns (R. 78, 119). Issues of "Reporter" freely criticized President Truman,[3] Secretary of State Byrnes,[4] Senator Vandenberg,[5] Congress,[6] and General Patton,[7] but praised Molotov[8] and Soviet commanders.[9] And notwithstanding petitioner's contention to the contrary (Pet. 20–21), the publication was highly critical of the foreign policy of the United States.[10] As fairly stated by the Court of Appeals, the Council's propaganda was "pro-Soviet in character, consistently critical of the foreign policy of the United States," and contained "unstinted praise of the communistic regime in Russia" and a "comparison of Soviet official behavior with that of the United States to the disparagement of the latter" (R. 440–441).[11]

[3] November 15, 1945, issue, p. 1; December 14, 1945, issue, p. 1. The issues of "Reporter" cited in this and succeeding footnotes are contained in Government Exhibit 4 in the folder containing exhibits not printed.

[4] October 15, 1945, issue, p. 1; November 15, 1945, issue, p. 1.

[5] November 30, 1945, issue, p. 3.

[6] October 15, 1945, issue, p. 4; November 15, 1945, issue, p. 4.

[7] October 15, 1945, issue, p. 2.

[8] October 15, 1945, issue, p. 1; November 15, 1945, issue, pp. 1, 2.

[9] October 15, 1945, issue, p. 2.

[10] October 15, 1945, issue, pp. 2, 4; November 30, 1945, issue, pp. 1, 2; December 14, 1945, issue, pp. 1, 3.

[11] There is no warrant for petitioner's criticism (Pet. 21–23) of the Court of Appeals' decision of the pertinency issue as being based solely upon the Council's views as to our foreign policy, a subject which he says is outside the

In these circumstances, the Committee had "reasonable cause for concern" (*Barsky* v. *United States*, 167 F. 2d 241, 246–247 (C. A. D. C.), certiorari denied, 334 U. S. 843, petition for rehearing pending; *Marshall* v. *United States* (C. A. D. C.), petition for certiorari pending, No. 197, O. T., 1949) and was justified in believing that the Council was engaged in propaganda activities of the nature described in the enabling resolution and in pursuing its investigation to determine the origin of such propaganda and its extent, character, and objects. In such an investigation it was pertinent to inquire as to who were the editors of "Reporter." "Personnel is part of the subject." *Barsky* v. *United States*, 167 F. 2d at 246; R. 441. The records called for in the subpoena were also pertinent; as the Court of Appeals said (R. 441), "it is of urgent importance that Congress know where such an organization gets its money, and exactly what it does with it." See also *Barsky* v. *United States*, 167 F. 2d at 244, 246; *Marshall* v. *United States*, *supra*; *United States* v. *Seymour*, 50 F. 2d 930, 939 (D. Nebr.). The Committee's power of inquiry, anticipating all possible cases, was very broad, and the evidence it sought came within the scope of the inquiry. *Townsend* v. *United States*, 95 F. 2d 352, 361 (C. A. D. C.), certiorari denied, 303 U. S. 664.

---

scope of the Committee's competence. The court's decision obviously was based upon an examination of all the Council's propaganda introduced in evidence.

2. Petitioner also argues (Pet. 24–27) that the trial court's rejection of his request to compel the Committee to produce materials in its files concerning the Council (R. 83–85, 111–113, 122–123) and the court's action in excluding proffered evidence which, he claims, would have shown that the Committee had an ulterior purpose merely to obtain names to add to an alleged "blacklist" (R. 167–170) had the effect of precluding judicial review of the issue of pertinency. This is but another facet of his contention that the information demanded by the Committee was not pertinent to any legitimate inquiry. But, as we have shown, the evidence adduced by the Government established the pertinency of that information and the trial court ruled that such evidence was sufficient for that purpose. No more was required or, indeed, relevant.

Furthermore, the Committee's records are confidential. Their disclosure to the public would greatly weaken the effectiveness of the Committee's investigatory powers and could deter members of the public from reporting subversive activities for fear that their names might be disclosed. It was not incumbent upon the Government to produce its files for the benefit of petitioner; *Marshall* v. *United States*, *supra*; cf. *Goldman* v. *United States*, 316 U. S. 129, 132; *Jordan* v. *Bondy*, 114 F. 2d 599, 602–603 (C. A. D. C.); *United States* v. *Muraskin*, 99 F. 2d 815, 816 (C. A. 2); *Arnstein* v. *United States*, 296

Fed. 946, 950 (C. A. D. C.), certiorari denied, 264 U. S. 595; see also *Townsend* v. *United States, supra,* 95 F. 2d at 359.

Finally, petitioner's attempt to impugn the motives of members of the Committee in pursuing an investigation clearly within the scope of its authority was properly foreclosed by the trial court. *Eisler* v. *United States,* 170 F. 2d 273, 279 (C. A. D. C.), certiorari granted, 335 U. S. 857, No. 255, O. T. 1948, cause ordered removed from docket, 338 U. S. 189; *Dennis* v. *United States,* 171 F. 2d 986, 988–990 (C. A. D. C.), certiorari granted, limited to a different question, June 27, 1949, No. 14, O. T., 1949; *Barsky* v. *United States, supra,* 167 F. 2d at 251; *Marshall* v. *United States, supra.* See also our brief in the *Eisler* case, *supra,* pp. 90–93.

3. Petitioner's contention (Pet. 24) that the subpoena for production of the Council's records (R. 251–252) was invalid under the Fourth Amendment because it was too broad and constituted merely a "fishing expedition" is unavailing. In the first place, this contention involves only the first count of the indictment. The sentence imposed on petitioner was a general one and did not exceed the penalties which might have been imposed on the second count for refusing to give the names of the members of the Council's publications committee. Hence, the contention need not be considered. *Pinkerton* v. *United States,* 328 U. S. 640, 644; *Hirabayashi* v. *United*

States, 320 U. S. 81, 85, 105; *Sinclair* v. *United States*, 279 U. S. 263, 299. In any event, we have shown that the materials demanded by the subpoena were pertinent. Subpoenas much broader in scope and covering much longer periods than the one year involved here [12] have been upheld as valid. *Brown* v. *United States*, 276 U. S. 134, 138; *Wheeler* v. *United States*, 226 U. S. 478, 483; *United States* v. *Medical Society*, 26 F. Supp. 55, 57 (D. C. D. C.). In *Marshall* v. *United States*, *supra*, a subpoena very similar to the one involved here but covering a period of approximately 5½ years, was upheld. See our brief in that case, pp. 13–14.

It should also be noted that although petitioner stated that compliance with the subpoena would have meant production of about 88 drawers of material and an interference with the Council's business, he admitted this was not the reason for his refusal to produce the records (R. 184), the real reason being that he believed it was beyond the power of the Committee to issue the subpoena (R. 11–12). In addition, the Committee, in order not to inconvenience the Council, offered to send an investigator to the Council's New York office to examine the records sought, but petitioner stated he would not permit this (R. 12).

[12] In the instant case the subpoena was narrowly limited to the Council's records for 1945 (R. 252), whereas the Council had been organized as early as November 1942 (R. 255).

4. There is no merit in petitioner's attack (Pet. 30) upon the trial court's instruction that the word "willfully" as used in R. S. 102 (*supra*, p. 3) requires only that the default be intentional and deliberate, as distinguished from accidental or inadvertent, and does not mean that it must be for an evil or bad purpose (R. 215). Neither was there any error, as petitioner asserts, in excluding proffered evidence calculated to show that he acted in good faith. This argument has uniformly been rejected in cases arising under this statute. *Sinclair* v. *United States*, 279 U. S. 263, 299; *Fields* v. *United States*, 164 F. 2d 97, 100 (C. A. D. C.), certiorari denied, 332 U. S. 851; *Barsky* v. *United States*, *supra*, 167 F. 2d at 251; *Eisler* v. *United States*, *supra*, 170 F. 2d at 280; *Townsend* v. *United States*, *supra*, 95 F. 2d at 357; *Marshall* v. *United States*, *supra*. The cases petitioner cites (Pet. 30) involved other and different statutes.

5. Petitioner attempts to reap an advantage from the recent decision of this Court in *Christoffel* v. *United States*, 338 U. S. 84. But, "unfortunately," as he puts it (Pet. 29), no issue as to the presence of a quorum of the Committee was raised or canvassed at the trial. Counsel would supply this deficiency with the statement that "petitioner has informed his counsel that only three members of the nine-member Committee attended the hearing at which he appeared, with one

of such members leaving before the petitioner refused to answer the question or produce the documents for which refusals he was convicted" (Pet. 29). But, obviously, this will not do. For aught that appears, the members present may have constituted a subcommittee. In the circumstances, petitioner has no standing now to raise the question. Review here is confined to the record, *Thomson* v. *Gaskill*, 315 U. S. 442, 446, and the allegations of fact made in the petition are unavailing. *Bono* v. *United States*, 113 F. 2d 724, 725 (C. A. 2).

6. Petitioner reiterates the oft-rejected contention that the Committee's charter is unconstitutional, and rests upon the brief for the petitioner in *Eisler* v. *United States, supra*, No. 255, O. T. 1948. We rest our case on this question on our brief in the *Eisler* case, pp. 22–64, and the decisions of the Court of Appeals for the District of Columbia Circuit in that case and the *Barsky*, *Dennis*, and *Marshall* cases, *supra*, as well as the Second Circuit's decision in *Josephson* v. *United States*, 165 F. 2d 82, certiorari denied, 333 U. S. 838.

7. Petitioner contends (Pet. 27–29) that government employees should not have been allowed to serve on the jury because of possible prejudice against him resulting from fear of loss of employment if they should acquit, and he points to Executive Order 9835, 12 Fed. Reg. 1935, the "loyalty order," and the Attorney General's list of subversive organizations, including the Council,

as engendering such fear. Specifically, he complains of the trial court's refusal to question government employees on the panel concerning the Executive Order, the Attorney General's list, or any fear they might have of losing their jobs for disloyalty if they should find petitioner not guilty (R. 61–64).

In the exercise of peremptory challenges the Government excluded one government employee (Tr. 109) and the defense three (Tr. 108, 109, 110). As finally selected, the jury contained three government employees (Tr. 83, R. 65; Tr. 92, R. 66; Tr. 83, 91; R. 66).

Questions 47 to 59 (R. 61–63), which petitioner framed and maintains should have been asked, were improper as suggesting groundless fears and prejudice to the jurors, but the unobjectionable parts of them were embodied in questions 38 to 46 (R. 61), which were asked by the court (Tr. 90, 92, 93). Questions 55, 56, and 57 (R. 62) suggested, contrary to the facts, that a vote for acquittal might be used to harm the careers of jurors employed by the Government. Such questions, if allowed, might have raised groundless fears that the Committee would hold such jurors suspect of Communism and enter notations of such suspicions in its files, which later might prejudice them in loyalty investigations. Therefore, there was a real possibility that the asking of such questions might result in a jury not wholly impartial, whereas the very purpose of the voir dire

was to assure an impartial jury. Question 60 (R. 63), which the court asked (R. 64), was as favorable as petitioner could demand, and helped to eliminate from the jury anyone prejudiced in the Government's favor against petitioner.

No issues of subversive or alleged subversive propaganda activities were submitted to the jury. The only reference to such activities was on the issue of pertinency heard outside the presence of the jury (R. 74), and the court instructed the jury that the documents subpoenaed and the question propounded were pertinent to the inquiry (R. 213). Since the jury had to decide only the principal questions of wilful refusal to produce the records required by the subpoena and refusal to answer the question propounded (R. 216), they had no occasion to consider whether the Council was engaged in subversive activities. Therefore, an acquittal by the jury could not reasonably be construed as a repudiation of any action or policy of the Attorney General or other government officer administering the loyalty program. Under these circumstances, as we pointed out in our brief in the *Marshall* case, *supra*, an order excluding all government employees from the jury panel would have been inconsistent with the rule of *Thiel* v. *Southern Pacific Company*, 328 U. S. 217, because government employees constitute a substantial cross-section of the community. And it is settled that, as a general rule, the presence of government employees on the jury in a criminal

prosecution does not *ipso facto* deprive the defendant of an impartial trial. *Frazier* v. *United States,* 335 U. S. 497; *United States* v. *Wood,* 299 U. S. 123.

However, on June 27, 1949, this Court granted certiorari in *Dennis* v. *United States,* 171 F. 2d 986 (C. A. D. C.), No. 14, this Term, on the "question whether government employees could properly serve on the jury which tried" Dennis for a similar violation of R. S. 102 in failing to respond to a subpoena issued by the Committee. Since the broad question to be decided in the *Dennis* case is whether government employees are disqualified as a class from jury service in cases of this type, and since that issue is also presented here, it is suggested that on this point the Court enter an appropriate order in this case in the light of the final decision to be reached in the *Dennis* case.

CONCLUSION

Subject to the qualification stated at p. 19, *supra,* in respect of the service of government employees on the jury which tried petitioner, we respectfully submit that the petition for a writ of certiorari presents no question requiring further review by this Court and should therefore be denied.

PHILIP B. PERLMAN,
Solictor General.
ALEXANDER M. CAMPBELL,
Assistant Attorney General.
ROBERT S. ERDAHL,
ROBERT G. MAYSACK,
Attorneys.

SEPTEMBER 1949.